

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRI JOSEPH PLOVIE,

Plaintiff,

v.

VICTORIA JACKSON, *et al.*,

Defendants.

Case No. 2:05-CV-128

Hon. Richard Alan Enslen

ORDER

Plaintiff Henri Joseph Plovie has filed two *pro se* motions: (1) a motion to alter or amend the Court's Judgment Approving Report and Recommendation; and (2) a motion to make clerical corrections of the first motion. Oral argument is unnecessary in light of the briefing.

Plaintiff's second motion requests a clerical correction so that the first motion be understood as brought under Federal Rule of Civil Procedure 59(e), not Rule 56(e). This motion will be granted to that limited extent.

As for the first motion, relief is appropriate under Rule 59(e) due to: (1) an intervening change in law; (2) previously unavailable evidence has become available; and (3) the correction of a clear error of law or prevention of manifest injustice. *See Gen. Truck Drivers, Chauffeurs, Warehousemen & Helpers, Local No. 957 v. Dayton Newspapers, Inc.*, 190 F.3d 434, 445 (6th Cir. 1999) (citing cases). Plaintiff's motion concerns the third alternative—to prevent an error of law and/or manifest injustice.¹

¹Documentary evidence was filed with the motion, but is the type which was previously available to Plaintiff

Upon review of the said motion, the Court finds that the prior determination correctly analyzed the law, determined that Defendant was entitled to summary judgment, and further determined that Plaintiff should not be further permitted to amend his claims. As such, alteration of the judgment is inappropriate.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Henri Joseph Plovie's Motion to Amend an Inadvertent Typographical Error (Dkt. No. 76) is **GRANTED** to the limited extent that Plaintiff's Motion to Alter or Amend Judgment (Dkt. No. 65) is deemed filed pursuant to Federal Rule of Civil Procedure 59(e).

IT IS FURTHER ORDERED that Plaintiff's Motion to Alter or Amend Judgment (Dkt. No. 65) is **DENIED**.

DATED in Kalamazoo, MI:
December 11, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE